

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Criminal Case No. 88-50058

Joseph Eppinger,

Honorable Sean F. Cox

Defendant.

OPINION & ORDER
DENYING DEFENDANT'S MOTION FOR EXPUNGEMENT

This matter is before the Court on Defendant Joseph Eppinger's Motion for Expungement of his criminal record. For the following reasons, the Court shall DENY the motion.

BACKGROUND

In 1988, Defendant Joseph Eppinger ("Eppinger") was charged with one count of theft of government property in this action. The docket reflects that on November 15, 1988, Eppinger entered a plea of guilty pursuant to a plea agreement. (Docket Entry Nos. 12 & 13).

Docket entry No. 15 indicates that on January 24, 1989, Eppinger failed to appear for sentencing and an arrest warrant issued shortly thereafter. Eppinger was arrested on April 10, 1989. (Docket Entry No. 18). On the next sentencing date scheduled, Eppinger withdrew his guilty plea and indicated he wished to go to trial. (Docket Entry No. 19). Nevertheless, in May of 1989, Eppinger entered another guilty plea and was sentenced to one year of imprisonment. (Docket Entry Nos. 23 & 24). That sentence was suspended, however, and Eppinger was placed

on probation for a period of two and a half years. (*Id.*).

Eppinger apparently violated the terms of probation and probation was revoked. Eppinger was arrested on August 12, 1991, and was imprisoned for a period of one year. (Docket Entry Nos. 33 & 34).

Acting *pro se*, on March 4, 2008, Eppinger filed the instant Motion for Expungement.

ANALYSIS

Eppinger states that he is requesting expungement of his criminal record to aid him in seeking employment and to enable him to hunt in Michigan.

The Sixth Circuit has held that “[i]t is within the inherent equitable powers of a federal court to order the expungement of a record in an appropriate case.” *United States v. Doe*, 556 F.2d 391, 393 (6th Cir. 1977). However, in an unpublished decision, the Sixth Circuit also held that because the government has a strong interest in maintaining their records, “the **expungement power is narrow and appropriately used only in extreme circumstances.**” *United States v. Robinson*, 79 F.3d 1149, *1 (6th Cir. 1996)(emphasis added). The court noted that “federal courts have most readily invoked the expungement power with respect to illegal convictions, convictions under statutes later deemed unconstitutional, and convictions obtained through governmental misconduct.” *Id.* at *2.

In this case, Defendant asks that his criminal record be expunged primarily to aid him in seeking employment. The court in *United States v. Flagg*, 178 F.Supp.2d 903 (S.D.Ohio 2001), addressed a similar situation. In *Flagg*, the court held that records of valid arrests, indictments or convictions ordinarily may not be expunged. *Id.* at 905. Even assuming the defendant would suffer adverse consequences without expungement, because the arrest was valid and the

government did not concede the defendant was innocent, the *Flagg* court found that the defendant's arrest record could not be expunged.

Likewise in this case, Eppinger is not entitled to expungement. There is no indication that Eppinger's arrest, indictment or conviction were invalid or that the government concedes that he was innocent of the charges. Moreover, in his motion Eppinger acknowledge that he was, in fact, guilty of the criminal charges at issue. Eppinger does not offer any persuasive reason for expunging his criminal record.

CONCLUSION & ORDER

Accordingly, IT IS ORDERED that Eppinger's Motion for Expungement is DENIED.

IT IS SO ORDERED.

S/ Sean F. Cox
United States District Judge

Date: July 2, 2008

I hereby certify that on July 2, 2008, a copy of the foregoing document was served upon counsel of record by electronic means and by First Class Mail upon:

Joseph R Eppinger
1443 E. Scottwood Avenue
Burton, MI 48529

S/ Jennifer Hernandez
Case Manager